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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,384	03/12/2004	Gary Schaeffer	002-42	8850

7590 02/08/2005

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EXAMINER

THOMAS, DAVID B

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,384

Applicant(s)

SCHAEFFER, GARY

Examiner

David B. Thomas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 3 is objected to because of the following informalities: Line 2 of the claim recites "*the* first size". This limitation should read, "a first size", in order to have proper antecedent basis. Appropriate correction is required.
2. Claim 4 is objected to because of the following informalities: the examiner notes that end of line 3 leading into line 4 of clause (b) of the claim recites, "said body of portion", however, it appears from the beginning of line 3, that the applicant intended the limitation to read, "said body portion". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(a) as being anticipated by Wilson (D499,627).

Wilson discloses a detachment tool having a grip portion and an extension portion that is generally wedge shaped and having an opening, wherein the opening has a first outer portion of a first size and a second inner portion of a second smaller size.

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5. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Arbanasin (1,164,776), Bartlett (D355,103), Seidlein (D206,046), Smith (1,043,369) or Strickland (5,722,141).

Arbanasin, Bartlett, Seidlein, Smith, or Strickland disclose a tool that is capable of detaching or removing a detachable part from a two-part article, any one of the tools having a grip portion and an extension portion that is generally wedge shaped and having an opening, wherein the opening has a first outer portion of a first size and a second inner portion of a second smaller size.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin (D256,442).

Martin discloses a detachment tool having a grip portion and an extension portion that is generally wedge shaped and having an opening, wherein the grip portion comprises a plurality of longitudinally extending, spaced apart ribs.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Ploeger (6,663,082).

Ploeger discloses a detachment tool having a grip portion and an extension portion that is generally wedge shaped and having an opening, wherein the grip portion comprises a plurality of longitudinally extending, spaced apart ribs.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

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person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of the prior art references applied to claim 1 above, in view of Stowell et al. (4,974,286).

Any one of the prior art references, as applied to claim 1 above, disclose the invention as claimed, except for the particular material for the grip portion. Stowell et al. disclose a grip that is constructed from a yieldably deformable material. Stowell et al. teach that the grip is intended to be a universal grip for household and other hand-held implements, and further teach that the benefit of such a grip is to provide a universal handle that is ergonomically adapted to render hand-held implements usable by individuals who are incapable of firmly grasping a conventional handle. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified any one of the prior art references, as applied to claim 1 above, by substituting, or replacing the grip portion with a grip portion that is yieldably deformable, such as the grip as taught by Stowell et al., wherein such a grip would improve a user's grip or control of the tool.

Allowable Subject Matter

10. Claim 4 would be allowable if rewritten or amended to overcome the objection set forth in this Office action.

11. The following is a statement of reasons for the indication of allowable subject matter: It is the examiner's opinion that the tool as claimed in claim 4, having the combination of an elongate hand and finger grip portion having a plurality of circumferentially spaced rib portions; and a generally wedge shaped extension portion having a first generally U-shaped opening of a first size and an adjacent, second generally U-shaped opening of a second

smaller size, has neither been anticipated, nor fairly suggested, in part or whole, by the prior art of record.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shoemaker, III discloses a cork puller. Tsuha discloses a hand tool for removing hoses. Komar et al. disclose a hand tool. Decker et al. disclose slip resistant cushion covers for handles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Thomas whose telephone number is (571) 272-4497. The examiner can normally be reached on 7-4 M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David B. Thomas
Primary Examiner
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